

45D01-2110-CT-001018

Lake Superior Court, Civil Division 1

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Clerk

Lake County, Indiana

STATE OF INDIANA) IN THE LAKE CIRCUIT/SUPERIOR COURT
))
COUNTY OF LAKE) SITTING AT _____, INDIANA
)
MARGARET TUCKER,)
)
Plaintiff)
)
 vs.) CAUSE:
)
ILLINOIS CENTRAL RAILROAD CO.,)
ILLIANA CENTRAL RAILROAD, and)
CANADIAN NATIONAL RAILWAY,)
)
Defendants)

COMPLAINT

Comes now plaintiff, Margaret Tucker, by her attorneys, Schafer & Schafer, LLP, and complaining of the defendants, Illinois Central Railroad Company, Illiana Central Railroad and Canadian National Railway alleges and states:

1. That plaintiff, Margaret Tucker, at all times relevant herein was a resident of Highland, Indiana.
2. That defendants owned and operated a railroad that intersects the Erie Lackawanna bike trail Broad Street in Griffith, Indiana 46385.
3. That at all times relevant herein, Illinois Central Railroad Company, Illiana Central Railroad and Canadian National Railway were in control, possession and management of said railroad in which defendants conducted business.
4. That at all times relevant herein defendants, Illinois Central Railroad Company, Illiana Central Railroad and Canadian National Railway were under a duty to maintain and supervise said property so as to keep it in a reasonably safe condition for invitees.
5. That on or about May 27, 2020, plaintiff, Margaret Tucker, was riding her bicycle on said bike trail and was an invitee on the premises of the defendant.
6. That plaintiff, Margaret Tucker's, bike tire got stuck in a dangerous, hazardous, and latent condition that was allowed to exist on the tracks, and as a result thereof, caused

plaintiff to concrete with great force and violence.

7. That on or about May 27, 2020, plaintiff, Margaret Tucker, was riding her bicycle on the bike trail that intersects with the defendant's railroad tracks located at the intersection of the Erie-Lakawanna Bike Trail and Broad Street, Griffith, Indiana 46319 when suddenly, without warning, her bike tire got stuck in a dangerous, hazardous, and latent condition that was allowed to exist on the tracks which caused plaintiff to fall and violently strike the ground and sustain severe and permanent injuries.

8. That at the time and place aforesaid, defendants, Illinois Central Railroad Company, Illiana Central Railroad and Canadian National Railway, were guilty of one or more of the following wrongful acts or omissions:

- a. Carelessly and negligently failed to exercise reasonable care to keep the premises reasonably safe for patrons and business invitees.
- b. Carelessly and negligently allowing and permitting a dangerous and hazardous condition to exist in its railroad track area rendering it unsafe and in a defective condition.
- c. Carelessly and negligently failed to take reasonable precautions to protect the public.
- d. Carelessly and negligently failed to properly maintain the railroad tracks, and in particular the area where the plaintiff fell, in a safe condition for the patrons using the same.
- e. Carelessly and needlessly failed to properly and adequately supervise, monitor, and manage the railroad tracks so as to prevent injury to its patrons.
- f. Carelessly and negligently knew, or should have known, with the exercise of reasonable care, of the dangerous and hazardous condition that existed and failed to respond accordingly.
- g. Carelessly and negligently failed to warn the plaintiff or other business invitees of the dangerous, unsafe and defective conditions of said railway area.

- h. Carelessly and negligently failed to place any warning signs near the railway plaintiff fell to warn of the dangerous and hazardous condition which existed.
 - j. Carelessly and negligently failed to use the care an ordinarily careful store would have used under the same or similar circumstances.
9. That as a direct and proximate result of one or more of the aforesaid wrongful acts or omissions of the defendants, plaintiff, Margaret Tucker, sustained severe and permanent injuries, disfigurement, deformity, scarring, physical pain, mental suffering, is unable to function as a whole person, and has a diminished quality of life.
10. That as a further direct and proximate result of one or more of the aforesaid wrongful acts or omissions of the defendants, plaintiff, Margaret Tucker, suffered an intertrochanteric of the proximal left femur resulting in a left intramedullary nailing of the intertrochanteric fracture, using a Titanium Trochanteric Fixation Nail system consisting of cannulated nails, cannulated helical blades, cannulated femoral neck screws, cannulated end caps and locking bolts and screws and a fracture of her left radius of her arm all of which required medical care and treatment, and further, has become liable for past and future medical expenses, has past and future lost wages and earning capacity, has and will be kept from attending to his ordinary affairs and duties and has and will lose great gains which she otherwise would have made and acquired.

WHEREFORE, plaintiff, Margaret Tucker, by counsel, demands judgment against the defendants, Illinois Central Railroad Company, Illiana Central Railroad and Canadian National Railway, for such sums as are reasonable in the premises, for the costs of this action and for all other just and proper relief in the premises.

Respectfully submitted,

SCHAFER & SCHAFER, LLP
ATTORNEYS AT LAW

BY: Timothy S. Schafer II
TIMOTHY S. SCHAFER II
Attorney #29474-64
Attorney for Plaintiff

JURY DEMAND

Comes now plaintiff, by counsel, and demands trial by jury on all issues triable by a jury.

Respectfully submitted,

SCHAFER & SCHAFER, LLP
ATTORNEYS AT LAW

BY: TIMOTHY S. SCHAFER II
TIMOTHY S. SCHAFER II